IN THE UNITED STATES DISTRICT COURT FOR THE WESTERN DISTRICT OF TEXAS SAN ANTONIO DIVISION

MELODY JOY CANTU and	§
DR. RODRIGO CANTU,	§
Plaintiffs	§
	§
	§ CASE NO.: 5:20-CV-00746-JKP (HJB)
	§
V.	§
	§
DR. SANDRA GUERRA and	§
DIGITAL FORENSICS	§
CORPORATION, LLC	§
Defendants	§

MOTION FOR LEAVE TO FILE FIRST AMENDED ANSWER, AFFIRMATIVE DEFENSES AND FIRST AMENDED COUNTERCLAIM OF DEFENDANT DR. SANDRA GUERRA

TO THE HONORABLE UNITED STATES DISTRICT COURT:

NOW COMES Defendant, DR. SANDRA GUERRA (hereinafter "Guerra"), and pursuant to FRCP 15(a)(1)(B), files this her Motion for Leave to File First Amended Answer, Affirmative Defenses, and First Amended Counterclaim of Defendant Dr. Sandra Guerra, and in support thereof would show unto the Court as follows:

- 1. Under FRCP15(a)(1)(B), a party may only amend without leave of Court as a "matter of course" if done so within 21 days after the 12b(6) motion is served. Plaintiffs' Motion to Dismiss (Document No. 21) was served on October 27, 2020. On November 13, 2020, the Court granted Guerra's Unopposed Motion for Extension to File Response to Plaintiffs' Rule 12b(6) Motion to Dismiss Counterclaim (Document No. 24). The extended date to file the Guerra's response is November 27, 2020.
 - 2. It has been Guerra's intent to simultaneously file her Response to Plaintiffs' Motion

to Dismiss together with her First Amended Answer to Plaintiffs' Amended Complaint and Counterclaim in order to fully and coherently address all issues raised in Plaintiffs' Motion to Dismiss within the extended timeframe allowed by the Court – on or before November 27, 2020. However, more than twenty-one (21) days have expired since the October 27, 2020 date Plaintiffs' filed their Motion to Dismiss. Therefore, Guerra respectfully seeks leave of Court pursuant to FRCP 15(a)(1)(B) to file her First Amended Answer, Affirmative Defenses, and First Amended Counterclaim (the "Amended Counterclaim'). In accordance with Local Rule CV-7(b), a copy of the Amended Counterclaim is included with this Motion for Leave.

3. FRCP15(a)(2) provides that the court should freely give leave when justice so requires.

PRAYER

WHEREFORE, PREMISES CONSIDERED, Defendant Guerra respectfully prays that this Motion for Leave to File her First Amended Answer, Affirmative Defenses, and First Amended Counterclaim be granted and that the Court grant Defendant Guerra all such other and further relief, both general and special, at law or in equity, to which Defendant Guerra may be entitled.

Dated: November 27, 2020. Respectfully submitted,

DAVIS, CEDILLO & MENDOZA, INC.

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ATTORNEYS FOR DEFENDANT, DR. SANDRA GUERRA

CERTIFICATE OF SERVICE

I certify that on this 27th day of November 2020, a true and correct copy of the foregoing was electronically filed with the Clerk of the Court using the CM/ECF system which will send electronic notification of such filing to the parties on record.

/s/Ricardo G. Cedillo RICARDO G. CEDILLO